

Weare, New Hampshire  
Article 29, Aquifer Protection Ordinance  
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Zoning Ordinance

## ARTICLE 29

### 29.1 AQUIFER PROTECTION ORDINANCE TOWN OF WEARE

29.2 PURPOSE: Pursuant to RSA 674:16 674:21, the Town of Weare adopts an Aquifer Protection Ordinance and accompanying regulations to help insure a quality future for the people as set forth in the Master Plan. The Town believes that an adequate water supply is indispensable to the future well being, health, welfare, and safety of its citizens. Such an adequate supply of quality water is also essential to the maintenance of the existing natural environment of the Town, an environment the Town wishes to protect as essential to its overall goals and objectives. Since the water resources are under a constantly increasing demand for new and/or competing uses, and since the resources are under an ever increasing potential for contamination, the Town declares such water resources invaluable. These resources should be protected, conserved and managed in the interests of present and future generations. Therefore, the purposes of this Aquifer Protection Ordinance are:

29.2.1 To protect the public health and general welfare of the citizens of Weare.

29.2.2 To protect, preserve and maintain the existing and potential groundwater supplies from adverse development or unwise land use practices.

29.2.3 To promote future growth and development of Weare, in accordance with the Master Plan, by insuring the future availability of clean water for drinking and all domestic uses, plus, having available water in quantity for the Town's commercial and/or industrial future requirements.

29.2.4 To encourage uses that can appropriately and safely be located within the direct and indirect recharge areas of the aquifers.

29.3 LOCATION: The Aquifer Protection Zone is identified as those areas appearing on a Department of Interior, United States Geological Survey, entitled: AVAILABILITY OF GROUND WATER IN THE LOWER MERRIMACK RIVER BASIN, SOUTHERN NEW HAMPSHIRE, Water Resources

Investigations 77-69, by Jon Cotton, 1977 and/or as may be amended or superseded by the United States Geological Survey, or by the Planning Board as provided herein from time to time.

## 29.4

**RECHARGE AREAS:** For the purpose of this Ordinance, the Direct Recharge area for the U.S.G.S. identified aquifers are considered to be excessively well-drained soils directly over the aquifer. No primary or Indirect Recharge areas have been identified at the time of enactment and are not considered a part of this ordinance.

## 29.5 DEFINITIONS

**AQUIFER:** A geologic formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater usable for municipal or private water supplies.

**BULK SALE:** Removal and sale of groundwater.

**GROUNDWATER:** All the water below the land surface in sediments of sand, gravel and mixtures, or in rock fractures, capable of yielding water to a well.

**GROUNDWATER MINING:** Water being withdrawn at a rate exceeding the rate of recharge.

**GROUNDWATER RECHARGE AREAS:** Those primary, direct and indirect areas from which water is added to the aquifers by the natural processes of infiltration and precipitation.

**LEACHABLE WASTES:** Waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.

**MINING:** The removal of geologic materials such as topsoil, sand and gravel, metallic ores, or bedrock to be crushed or used as building stone.

**NON-CONFORMING USES:** Any lawful use of building, structures, premises, land or parts thereof existing as of the effective date of this Ordinance, or amendment thereto, and not in conformance with the provisions of this Ordinance, shall be considered to be a non-conforming use.

**RECHARGE AREAS:** Any land surface from which groundwater recharge occurs.

**SOLID WASTE:** Any discarded or abandoned material

including refuse, putrescible materials, septage, or sludge, as defined by New Hampshire Solid Waste Rules HE-P 1901.03. Solid waste includes solids, liquids, semi-solids, or waste containing gaseous material resulting from residential, industrial, commercial, mining, or agricultural operations, or waste from community activity or waste from educational institutions.

**STRUCTURE:** Anything constructed or erected, except a boundary wall or fence, the use

of which requires location on the ground or attachment~ to something on the ground. For the purposes of this Ordinance, buildings are structures.

**TOXIC OR HAZARDOUS MATERIALS:** Any substance or mixture of such physical, chemical, or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this Town. Toxic or hazardous materials include, without limitation, volatile organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, asphalt and roofing tars, and include products such as pesticides, herbicides, solvents and thinners, and such other substances as defined in New Hampshire Water Supply and Pollution Control Rules., Section Ws 410.04(1), in New Hampshire Solid Waste Rules He-P 1901.03(v), and in the Code of Federal Regulations 40 CFR 261. Wastes generated by the following commercial activities are presumed to be toxic or hazardous, unless and except to the extent that anyone engaging in such an activity can demonstrate the contrary to the satisfaction of the Planning Board:

- Chemical and bacteriological. laboratory operation, including laboratory operations in educational institutions.
- Dry cleaning and laundries.
- Electronic circuit manufacturing.
- Metal plating, finishing and polishing.
- Painting, wood preserving and furniture stripping.
- Pesticide and herbicide application.
- Photographic and printing processes.

## 29.6

**APPEALS:** Where bounds of the identified aquifer areas, as delineated, are in doubt or in dispute, any landowner aggrieved by such delineation may appeal the boundary location to the Planning Board. Upon receipt of such appeal, the Planning Board shall suspend further action on development plans related to the area under appeal and shall engage, at the landowner's expense, a qualified hydrogeologist to prepare a report determining the proper location and extent of the aquifer area(s) relative to the property in question. The aquifer map shall be modified, if need be, by such determination subject to review and approval by the Planning Board.

## 29.7 USE REGULATIONS

29.7.1 For minimum lot size refer to lot sizes for Residential, Rural Agricultural, Commercial and Industrial.

### 29.7.2

**MAXIMUM LOT COVERAGE:** Within the Aquifer Protection Zone, no more than 10% of a single lot, including the portion of any new street abutting the lot, may be rendered impervious to infiltration. Maximum lot coverage may be increased if upon site plan review, drainage requirements are properly engineered.

29.8

**PROHIBITED USES:** The following uses are prohibited in the Aquifer Protection Zone except where permitted to continue as a non-conforming use.

29.8.1 Disposal of solid waste other than brush.

29.8.2 Disposal of hazardous waste.

29.8.3 Subsurface storage of petroleum and other refined petroleum products.

29.8.4 Industrial uses which discharge processed waters.

29.8.5 Storage of road salt or other de-icing chemicals.

29.8.6 Dumping of snow containing de-icing chemicals.

29.8.7 Storage of unregistered junk and salvage yards.

29.8.8 Waste injection wells.  
automobile, junk

**29.9 PERMITTED USES:** The following activities may be permitted provided they are conducted in accordance with the purpose and intent of this Ordinance:

29.9.1 Single and two-family residential development.

29.9.2 Activities designed for conservation of soil, water, plants and wildlife.

29.9.3 Outdoor recreation, nature study, boating, fishing and hunting and other activities directly associated with the conservation of wildlife.

29.9.4 Normal operation and maintenance of existing water bodies and dams, splash boards and other water control, supply and conservation devices.

29.9.5 Foot, bicycle, horse paths, ski trails and bridges.

29.9.6 Maintenance, repair  
providing there is surface above the Ordinance.

of any existing structure, no increase in impermeable limit established by this

29.9.7 Farming, gardening, nursery, forestry, harvesting and grazing provided that fertilizers,

herbicides, pesticides, manure and other leachables are used appropriately at levels that will not cause groundwater contamination. Materials will be stored under shelter.

29.9.8 Maintenance and repair of any existing structure.

29.10 SPECIAL EXCEPTIONS: The Zoning Board of Adjustment may grant a Special Exception for those uses otherwise permitted in the underlying zoning district only if written findings of fact are made that all of the following are true:

29.10.1 The proposed use will not detrimentally affect the quality of the groundwater contained in any aquifer by directly contributing to pollution or by increasing the long-term susceptibility of any aquifer to potential pollutants.

29.10.2 The proposed use will not cause a significant reduction in the longterm volume of water contained in any aquifer or in the storage capacity of any aquifer.

29.10.3 The proposed use will discharge no waste water on site other than that typically discharged by domestic waste water disposal system and will not involve onsite disposal of toxic or hazardous wastes as here defined.

29.10.4 The proposed use complies with all other applicable sections of this Ordinance.

29.10.5 The Zoning Board of Adjustment may require that the applicant provide data or reports prepared by a registered professional engineer or qualified groundwater consultant to assess any potential damage to the aquifer that may result from the proposed use. The Zoning Board of Adjustment shall engage such professional assistance as it requires to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria

## 29.11 CONDITIONAL USES

29.11.1 The excavation of earth products providing such excavation does not go lower than four (4) feet above the water table.

29.11.2 Construction of ponds subject to site plan review.

29.12 SEPTIC SYSTEM DESIGN AND INSTALLATION: In addition to meeting all local and state septic system siting requirements, all new waste water disposal systems installed in the Aquifer Zone shall be designed by a registered professional engineer licensed in New Hampshire and approved by the Planning Board.

29.13 ADDITIONAL GUIDELINES: Except for single family and two-family dwellings, the

following guidelines shall be observed within the Aquifer Protection Zones:

29.13.1 Safeguards: Provision shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage, or vandalism through measures such as:

spill control provisions in the vicinity of chemical or fuel delivery points, secured storage areas for toxic or hazardous materials, and indoor storage provisions for corrodible or dissolvable materials. For operation which allow the evaporation of toxic or hazardous materials into the interiors of any structure, a closed vapor recovery system shall be provided for each such structure to prevent discharge of contaminated condensate into the groundwater.

29.13.2 Location: Where the premises are partially outside the Aquifer Protection Overlay Zone, potential pollution sources such as on-site waste disposal systems shall be located outside the Zone.

29.13.3

Drainage: Runoff from impervious surfaces shall be recharged on the site,, and diverted toward areas covered with vegetation for surface infiltration to the extent possible. Commercial and Industrial dry well shall be used only where other methods are not feasible, and shall be preceded by oil, grease, and sediment traps to facilitate removal of

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contaminants.

29.13.4 Inspection: All uses granted under Section 29.10 may be subject to annual inspections by the Building Inspector or if another agent, that agent must be approved by both the Board of Selectmen and the Planning Board. The purpose of these inspections is to ensure continued compliance with the conditions under which approvals were granted. A fee for inspection shall be charged to the owner according to a fee schedule determined by the Selectmen.

## ARTICLE 30

### 30.1 RURAL CONSERVATION OVERLAY DISTRICT

#### 30.2

PURPOSE & INTENT: The Rural Conservation Overlay District is superimposed over the Rural Agricultural (RA) District in order to encourage wise use of land which contains important natural resources. The RC District is intended to protect and enhance the rural

character and natural resources of the town, yet allow for orderly residential growth, and to provide for the retention of open spaces. It is intended that this ordinance shall:

30.2.1 Reduce the density of development on prime and significant agricultural soils in order to retain them for use by farm and horticultural enterprises both now and in the future.

30.2.2 Protect from excessive or inappropriate development unique and unusual natural areas which contain important natural or geological resources, wildlife, or other natural features.

30.2.3 Prevent expenditure of town funds for the purposes of providing and/or maintaining essential services and utilities in remote or inaccessible areas of the town where adequate services cannot be reasonably provided due to severe natural conditions.

### 30.3 PERMITTED USES

30.3.1 All uses permitted in the Rural Agricultural (RA) District are permitted in this District.

30.3.2 Special Exceptions, see Article 20.

### 30.4 AREA REQUIREMENTS

30.4.1 Individual lots: The area requirements shown in Table 11, Article 14, shall be doubled within the Rural Conservation District.

30.4.2 In cluster housing developments the density requirements in Table 11 shall apply. Where cluster developments are proposed in areas which contaminate prime agricultural soils, such soils shall be preserved as open space to the greatest extent possible.

30.4.3 All other setback and distance requirements shall be the same as those in the Rural Agricultural (RA) District.

30.4.4

Minor subdivisions, as defined in the Town of Weare's Subdivision Regulations (3 lots or less), are exempt from the requirements of 30.4.1 and shall determine lot size based on Table 1-1.

Adopted: March 1988

Revised: March 1989

Revised: March 1990

Revised: March 1991